

STATE OF CALIFORNIA  
STATE WATER RIGHTS BOARD

In the Matter of Application 19488 )  
of Paul E. deRocher to Appropriate )  
from Sloss Creek in Lassen County )

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Decision D 1052

**ADOPTED DEC 21 '61**

DECISION APPROVING APPLICATION IN PART

Paul E. deRocher having filed Application 19488 for a permit to appropriate unappropriated water; protests having been received; a public hearing having been held in Susanville, California, on May 2, 1961, by the State Water Rights Board before Board Members Ralph J. McGill, presiding, and W. A. Alexander; applicant having appeared; protestants Clyde and Louise Thomasson having failed to appear; J. D. Hemphill appearing and being recognized as a protestant; evidence having been received, and the Board, having considered the same and now being fully advised in the premises, finds as follows:

1. Application 19488 as amended at the time of the hearing is for a permit to appropriate 300 gallons per day by direct diversion from April 1 to September 1 of each year for domestic and irrigation purposes from Sloss Creek in Lassen County. The point of diversion is to be located within the NW $\frac{1}{4}$  of NW $\frac{1}{4}$  of Section 17, T28N, R13E, MDB&M.

2. The applicant intends to irrigate a garden plot of approximately 500 square feet by pumping from Sloss Creek, using a pump and one-inch pipe which have already been installed. This

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is a "domestic" use of water as defined by the Board's rules (California Administrative Code, Title 23, "Waters," Section 661), and the application will be considered for that purpose.

3. Water is available at the applicant's point of diversion from April through June of almost every year and, in some years, during the month of July. There is no water available to the applicant during the months of August and September.

4. Sloss Creek crosses U.S. Highway 395 at a point approximately one mile below the applicant's point of diversion; it joins Bankhead Creek approximately 1.5 miles further downstream to flow into Baxter Creek at a point approximately 0.5 mile below. The properties represented by the protestant, J. D. Hemphill, lie approximately 3 miles below the Sloss-Bankhead Creek junction with Baxter Creek.

5. As Sloss Creek nearly always ceases to flow above the point where it crosses U. S. Highway 395 during the applicant's proposed diversion season, diversions as proposed in the application will not have any substantial effect upon the supply available to protestant, J. D. Hemphill, or the interest he represents.

6. There is unappropriated water available at times to supply the applicant, and, subject to suitable conditions, such water may be diverted and used in the manner proposed during those times without causing substantial injury to any lawful user of water.

7. The intended use is beneficial.

8. The Superior Court of Lassen County on December 15, 1955, entered a Decree (No. 8174) known as the Baxter Creek Decree, determining the rights to the use of the water of Baxter Creek and all of its tributaries, which include Sloss Creek. The only rights determined by this decree as it relates to Sloss Creek above its crossing with U. S. Highway 395 are those of William D. Thornton and Fred and Margaret L. Snipes. The applicant's predecessor apparently defaulted in the proceedings.

9. William D. Thornton and Fred and Margaret L. Snipes failed to enter a protest to Application 19488. However, the permit to be issued on this application should contain a special condition placing the permittee on notice that the permit is subject to the prior rights of these parties under the said decree.

From the foregoing findings, the Board concludes that Application 19488 should be approved in part and that a permit should be issued to the applicant subject to the limitations and conditions set forth in the following Order.

IT IS HEREBY ORDERED that Application 19488 be, and the same is, approved in part, and that a permit be issued to the applicant subject to vested rights and to the following limitations and conditions:

1. The amount of water to be appropriated shall be limited to the amount which can be beneficially used and shall not exceed 300 gallons per day by direct diversion to be diverted from about April 1 to about August 1 of each year for domestic purposes.

The equivalent of such continuous flow allowance for any 30-day period may be diverted in a shorter time if there be no interference with vested rights.

2. The maximum amount herein stated may be reduced in the license if investigation warrants.

3. Complete application of the water to the proposed use shall be made on or before December 1, 1963.

4. Progress reports shall be filed promptly by permittee on forms which will be provided annually by the State Water Rights Board until license is issued.

5. All rights and privileges under this permit, including method of diversion, method of use, and quantity of water diverted are subject to the continuing authority of the State Water Rights Board in accordance with law and in the interest of the public welfare to prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of said water.

6. Rights under this permit are and shall be subject to rights determined by Decree No. 8174 entered December 15, 1955, in Superior Court, Lassen County.

7. Permittee is hereby placed on notice that this permit being junior to all rights existing on Baxter Creek as of June 15, 1960, will be among the first water rights subject to possible loss or modification should the water of Baxter Creek or its tributaries be inadequate to satisfy all existing or adjudicated rights.

8. Permittee shall allow representatives of the State Water Rights Board and other parties, as may be authorized from time to time by said Board, reasonable access to project works to determine compliance with the terms of this permit.

Adopted as the decision and order of the State Water Rights Board at a meeting duly called and held in Sacramento, California, on the \_\_\_\_\_ day of \_\_\_\_\_, 1961.

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Kent Silverthorne, Chairman

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Ralph J. McGill, Member

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W. A. Alexander, Member